



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, DC 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/952,741	11/25/97	HATADA	2173-106P

002292 HM12/0607  
BIRCH STEWART KOLASCH & BIRCH  
PO BOX 747  
FALLS CHURCH VA 22040-0747

EXAMINER  
SLOBODYANSKY, E

ART UNIT PAPER NUMBER  
1652

DATE MAILED: 06/07/01 <sup>23</sup>

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

**Advisory Action**Application No.  
**08/952,741**Applicant(s)  
**Hatada et al.**Examiner  
**Elizabeth Slobodyansky**Group Art Unit  
**1652****THE PERIOD FOR RESPONSE:** [check only a) or b)]

- a) ☐ expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☐ expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

- ☒ Appellant's Brief is due two months from the date of the Notice of Appeal filed on May 31, 2001 (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Applicant's response to the final rejection, filed on May 31, 2001 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:

- ☒ The proposed amendment(s):

- ☐ will be entered upon filing of a Notice of Appeal and an Appeal Brief.
- ☒ will not be entered because:
- ☒ they raise new issues that would require further consideration and/or search. (See note below).
  - ☐ they raise the issue of new matter. (See note below).
  - ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
  - ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: Amendment of claim 3 does not change its scope and rejections. Amendment of claims 22-24 broadens their scope and requires in addition further consideration under 112, 1st paragraph, as to how to use a DNA encoding a protein of unknown function.

- ☒ Applicant's response has overcome the following rejection(s):  
Of claims 2, 5-7 and 14 under 112, 2nd paragraph.

- ☒ Newly proposed or amended claims 2, 5-7, and 14 would be allowable if submitted in a separate, timely filed amendment cancelling the non-allowable claims.
- ☐ The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because:

- ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

- ☒ For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):

Claims allowed: 12 and 13

Claims objected to: \_\_\_\_\_

Claims rejected: 2-7, 14-16, and 20-24

- ☐ The proposed drawing correction filed on \_\_\_\_\_ ☐ has ☐ has not been approved by the Examiner.
- ☐ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Other

*E. Slobodyansky*  
ELIZABETH SLOBODYANSKY  
PRIMARY EXAMINER  
ART UNIT 1652